

**Opening Statement of Senator Charles E. Grassley
Senate Special Committee on Aging Hearing
Monday, March 22, 1998**

**"Residents At Risk?
Weaknesses Persist in Nursing Home Complaint
Investigation and Enforcement"**

Good afternoon and welcome. Before we begin, I would like to thank our two witnesses who have traveled to be here today. They will share with us their personal and painful experiences with the complaint investigation and enforcement processes.

I also want to thank our panel of nursing home experts - the Inspector General of the Department of Health and Human Services and the General Accounting Office. Their extensive work in this area deserves particular commendation. And of course, I would like to extend a special welcome to members of the public.

Today's hearing is the second in a series of hearings to be held on the quality of care in nursing homes and the implementation of the Nursing Home Reform Act by the Health Care Financing Administration. As most of you are aware, the Committee held its first nursing home oversight hearing last July. This hearing was a two-day oversight hearing on the quality of care provided in California nursing homes. At the hearing, the General Accounting Office released a graphic report exposing serious problems in California nursing homes. The findings of the report were explosive and disturbing. The report also included detailed, common sense recommendations to improve the weaknesses disabling the regulatory system.

Days before the Committee's hearing, the President announced a 22 point nursing home initiative upon the release of a 900-page indictment of the status quo under HCFA's watch. I welcomed the President's announcement in July directing HCFA to work to improve the quality of life for nursing home residents.

Just last week, Nancy-Ann Min DeParle, the Administrator of HCFA, again announced several projects that have been identified in the reports HCFA sends to me each month. In addition, she sent a letter to the states addressing several of the problems identified in a GAO report which will be released today. Again, I commend this positive action. I am glad today's hearing prompted such a quick response. It leads me to think I should have a hearing once a month to inspire these productive press conferences.

Since last July, I have been actively monitoring HCFA's implementation of the July recommendations and initiatives. I also requested two additional GAO studies to continue my oversight in this area. One of these reports analyzes the enforcement process created in 1987 with the enactment of the Nursing Home Reform Act. A second report examines state complaint investigation processes. This complaint report will be officially released by the GAO today.

We are also fortunate to have the Inspector General's Office here today to release six reports. Testimony will focus on one of these reports, an overview report which analyzes trends within the long-term care setting and the capacity of current systems to protect nursing home residents. All of these reports provide further justification for the Committee's ongoing nursing home oversight project.

Today, you will *not* hear from HCFA. HCFA is the federal agency charged by law to protect nursing home residents. HCFA must ensure that the enforcement of federal care requirements for nursing homes

protects the health, safety, welfare and rights of nursing home residents. Yet, HCFA is a no-show.

There is a very specific reason for today's hearing, and this series of hearings. It's because the health, safety, welfare, and rights of nursing home residents are at great risk. Yet, the agency responsible is not here.

The Committee has invited two private citizens to testify. The value of their testimony in the public interest is that they lived and suffered through the response process that HCFA oversees. It's a complaint process that's turned upside-down. It's the testimony of citizen witnesses like these that Congress, HCFA, and the public can learn from. That's how we can right the wrongs of a broken complaint system that puts nursing home residents at risk.

The reason HCFA isn't here is puzzling given the focus on listening to citizen complaints. HCFA is an agency within the Department of Health and Human Services - HHS. HHS has determined that HCFA cannot show up today because HHS witnesses do not follow citizen witnesses. That's their so-called policy. In other words, HCFA - the organization that protects the health, safety, welfare, and rights of nursing home residents - is not here because its protocol prevents them from testifying after citizen witnesses.

Last Friday, when discussing this matter with HHS officials, my staff was told the following: "Our policy is that we testify before citizen witnesses.

Now, I have four comments on this.

First, how serious is the Department about the problems we're uncovering in nursing homes when a protocol issue decides whether they testify?

Second, I have conducted hearings, in which citizens go first, since 1983. Other committees have done the same. I don't recall any department at any hearing I conducted since 1983 that failed to produce a witness, even though their witness testified after private citizens.

Third, the department may be trying to convince the public it cares, but this no-show doesn't help that cause. The public might confuse this with arrogance.

Finally, this situation today could not possibly have illustrated better the point you're about to hear from our citizen witnesses. Namely, that their complaints fell on deaf ears. They have traveled many miles today, hoping that government officials will hear their plea. Instead, what do they get? A bureaucratic response. Their agency-protectors are no-shows because of a protocol. Because of arrogance, perhaps.

So, we'll move forward with today's hearing, learning how the nursing home complaint system is in shambles. And the agency responsible for fixing it isn't here. Of course, they can read about it - once it is put in writing- a process they are comfortable with.

Since I have been in Congress, I have never taken partisan shots at an administration. I believe only in accountability. My heaviest shots were against administrations of my own party. The record reflects that clearly.

The easy thing to do would be to take partisan pot shots over this. It's much harder to re-double our efforts, in a bi-partisan way on this Committee, until HHS and HCFA get the message. When will HHS and HCFA hear what's going on out there in our nation's nursing homes? Perhaps when they learn to

listen to the citizens we - all of us in government - serve. Until they get the message, these problems will get worse before they get better.

We also extended an invitation to nursing home industry representatives as well as the states included in the GAO's complaint report to submit written testimony addressing nursing home complaint investigation and enforcement processes. This testimony is available to the public and will be included in the official Committee print.

In closing, there are a few things that I want to emphasize before I turn to Senator Breaux. First, we have a duty and responsibility to know the truth regarding the quality of care being provided to nursing home residents and the systems designed to protect these residents. This hearing marks an additional step in this direction. Second, I am committed to this issue and will continue exploring the issue of quality of care in nursing homes as a general matter over the upcoming year. Elderly nursing home residents -- those who don't have a voice -- deserve no less.